

# COURTHOUSE NEWS

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A Summary of Topical Highlights from decisions of the  
U.S. District Court for the District of Oregon  
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## Non-Compete Agreement

Plaintiff brought a claim of declaratory relief to enforce a non-competition agreement against defendant, plaintiff's former employee. Both parties moved for summary judgment and plaintiff alternatively moved for a preliminary injunction. Judge Hubel found that the agreement was entered into at the commencement of plaintiff's employment even though plaintiff professed no memory of having signed the agreement, that the agreement's one-year duration was reasonable, and that it was reasonable in its geographic scope. Judge Hubel then concluded that issues of fact precluded a determination on summary judgment as to whether the restrictions, as narrowed, had actually been violated. Judge Hubel noted that if the facts at trial were in defendant's favor, defendant would prevail on its estoppel argument. Judge Hubel declined to resolve the legal issue of the duration of the injunction on the summary judgment record.

Actuant Corp. v. Huffman CV-

04-998-HU.

(Opinion, Feb. 18, 2005)

Plaintiff's counsel: Beth Allen

Defense counsel: Amy Alpern

## Employment

Judge Aiken granted in part and denied in part defendant's motion for partial summary judgment. Plaintiff brought a total of six claims against the defendant. Defendant moved for summary judgment on the following three claims:

plaintiff's Equal Pay Act claims, and plaintiff's state law claim for discrimination against a disabled person. The court denied summary judgment as to plaintiff's Equal Pay Act claims, but granted summary judgment on plaintiff's claim of disability pursuant to Or. Rev. Stat. § 659A.100.

Bea v. Monaco Coach Corp.

CV 03-1430-AA

(Opinion, April 22, 2005)

Plaintiff's Counsel: David

Griggs

Defense Counsel: William

Martin

## Clean Water Act

Judge Haggerty granted in part plaintiffs' motion for partial summary judgment. Plaintiffs alleged violations of the Clean Water Act and sought an declaration regarding defendants' violations, an injunction, the imposition of civil penalties, and an award of costs. The court found that defendants had committed violations of certain discharge limits in violation of the Clean Water Act.

Oregon Public Interest Research Group v. Pacific Coast Seafoods

CV 02-924-HA

(Opinion, March 15, 2005)

Plaintiffs' counsel: Charles C.

Caldart

Defense Counsel: Jerry Hodson

## Employment

Judge Stewart granted defendants' motion for summary judgment against part of plaintiff's federal and state claims for sex discrimination; as well as against plaintiff's claim for hostile work environment based on sex; federal and state disability discrimination; and intentional infliction of severe

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emotional distress.

Begin v. N. Clackamas Sch. Dist., CV 03-1412-ST

(Opinion, Jan. 12, 2005)

Plaintiff's Counsel: Kevin Lafky

Defense Counsel: J. Channing Bennett

## Speedy Trial - 6<sup>th</sup> Amendment

After an unsuccessful attempt to pick up a container of over 100 kilos of marijuana at the Portland Airport in January 1996, defendant left Oregon and returned to California. Within a few weeks, defendant was indicted in this court and an arrest warrant issued. Law enforcement efforts to find defendant over the next eight years were unsuccessful. Finally, because of defendant's evident overconfidence in an alias, improved computer search technology, and a series of lucky breaks, federal marshals captured defendant in Orinda, California, on May 26, 2004. Defendant moved to dismiss the 1996 indictment for violation of his Sixth Amendment right to a speedy trial. Judge Jones held an all day hearing involving numerous witnesses, and after further briefing and closing arguments, denied defendant's motion. Applying the balancing test set forth in Barker v. Wingo, 407 U.S. 514 (1972), as interpreted in Doggett v. United

States, 505 U.S. 647 (1992), Judge Jones found that the government had exercised due diligence in searching for defendant, and that responsibility for the delay rested with him. In the absence of any evidence of actual prejudice to defendant, his Sixth Amendment speedy trial right was not violated and Judge Jones denied the motion.

U.S. v. Gregory Frank Spere, CR 96-58-JO

(Opinion, April 15, 2005)

Govt Counsel: John Haub

Defense Counsel: David McDonald

## Land Use Claims

Judge Aiken granted a defense motion for summary judgment dismissing the case. The plaintiffs, Don Jones and his development company, sued the City of McMinnville, Oregon, because city voters voted down four proposals by Jones to annex parcels of his land to the city for development, and because the city council then refused to extend facilities and services to Jones's unannexed land. Jones alleged violations of state and federal antitrust laws, denials of his civil rights under the United States and Oregon Constitutions, "inverse condemnation" under the

Oregon Constitution, and various state statutory violations. The court held that the statute of limitations had run on some of Jones's federal constitutional claims; that the state-action exception applied in the antitrust actions; that there was no regulatory taking because not all economic uses were precluded on Jones's property; and that the city had a rational basis for refusing to extend facilities and services to Jones's unannexed land and, thus, Jones was not denied equal protection or due process.

Jones v. City of McMinnville  
CV 04-47-AA

(Opinion, April 25, 2005)

Plaintiff's Counsel: Jeffrey Seymour

Defense Counsel: James Martin

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